

**IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF PENNSYLVANIA**

CARL WHITEHEAD,)	
)	
Plaintiff,)	Civil Action No. 2:13-cv-00929
)	
v.)	
)	United States Magistrate Judge
DONNA JO McDANIEL, <i>et al.</i> ,)	Cynthia Reed Eddy
)	
Defendants.)	

MEMORANDUM AND ORDER

Plaintiff in the above-captioned case has submitted for filing a Civil Rights complaint in this Court and has moved to proceed *in forma pauperis* under 28 U.S.C. § 1915, without prepayment of fees. The Prison Litigation Reform Act of 1995, Pub. L. No. 104-134, 110 Stat. 1321 (“PLRA”), which amended 28 U.S.C. § 1915, established certain financial requirements for prisoners who are attempting to bring a civil action or file an appeal *in forma pauperis*.

Specifically, a prisoner bringing a civil action *in forma pauperis* must pay the full amount of the \$350 filing fee. 28 U.S.C. § 1915(b)(1). In this regard, (unless already provided) the prisoner must submit a certified copy of his inmate trust fund account statement for the 6-month period immediately preceding the filing of his complaint so the Court can determine how the \$350 filing fee will be paid. 28 U.S.C. § 1915(a)(2). The prisoner must obtain this statement from the appropriate official of each prison at which he was or is confined. When funds exist in the prisoner’s account, the Court must collect an initial partial filing fee of 20 percent of the greater of-- (A) the average monthly deposits to the prisoner's account; or (B) the average monthly balance in the prisoner's account for the 6-month period immediately preceding the filing of the complaint. Thereafter, each time that the balance in plaintiff's prison account

exceeds \$10.00, an amount no greater than 20 percent of the money credited to plaintiff's account during the preceding month will be deducted and forwarded to the Clerk of Court until the filing fee is paid.

Finally, this Court must review Plaintiff's Complaint in accordance with the authority granted to federal courts for *sua sponte* screening and dismissal of prisoner claims under the PLRA. Specifically, section 1915(e) requires the federal courts to review complaints filed by persons who are proceeding *in forma pauperis* and to dismiss, at any time, any action that is frivolous or malicious, fails to state a claim on which relief may be granted, or seeks monetary relief against a defendant who is immune from such relief. 28 U.S.C. § 1915(e)(2)(B). If the Court dismisses the case for any of these reasons, the prisoner is NOT entitled to the return of his filing fee.

Plaintiff shall have fourteen (14) days from the date of this order to decide whether he wants to proceed with this case. If Plaintiff decides not to proceed with the case, he need not pay the \$350 filing fee and the action will be dismissed. Should Plaintiff wish to proceed with this action, he must authorize payments from his inmate account by returning a signed copy of the enclosed authorization form by **July 24, 2013**. An authorization form is attached. Plaintiff's failure to return a signed authorization will result in dismissal of this action.

AND NOW, this 10th day of July, 2013:

IT IS HEREBY ORDERED that, on or before July 24, 2013, Plaintiff shall file with this Court a signed copy of the enclosed authorization form indicating whether he wishes to proceed with this action. No extensions of time will be granted without just cause.

IT IS FURTHER ORDERED that Plaintiff's failure to comply with this Order on or before July 24, 2013 will result in immediate dismissal of this action without prejudice.

s/ Cynthia Reed Eddy
Cynthia Reed Eddy
United States Magistrate Judge

cc: CARL WHITEHEAD
EK-5805
SCI Somerset
1600 Walters Mill Road
Somerset, PA 15510

AUTHORIZATION

I, CARL WHITEHEAD, hereby authorize the custodian of my inmate account to withdraw from my account and pay to the Clerk, United States District Court for the Western District of Pennsylvania, monthly payments of twenty percent (20%) of the preceding month's income credited to my account and to forward payments from my account, each time the amount in my account exceeds \$10.00, to the Clerk, United States District Court, until the entire filing fee of \$350.00 for Civil Action No. 2:13-CV-00929 has been paid.

PLAINTIFF'S SIGNATURE/DATE

WITHDRAWAL OF ACTION

I, **CARL WHITEHEAD**, Move to Withdraw Civil Action 2:13-cv-00929.

PLAINTIFF'S SIGNATURE/DATE